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Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15 (c) of the annex to Human Rights Council resolution 5/1 and paragraph 5 of the annex to Council resolution 16/21

Trinidad and Tobago*

The present report is a summary of 6 stakeholders' submissions[1] to the universal periodic review. It follows the general guidelines adopted by the Human Rights Council in its decision 17/119. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), nor any judgement or determination in relation to specific claims. The information included herein has been systematically referenced in endnotes and, to the extent possible, the original texts have not been altered. As provided for in Human Rights Council resolution 16/21, where appropriate, a separate section is provided for contributions by the national human rights institution of the State under review that is accredited in full compliance with the Paris Principles. The full texts of all submissions received are available on the OHCHR website. The report has been prepared taking into consideration the periodicity of the review and developments during that period.

* The present document was not edited before being sent to United Nations translation services.

Information provided by stakeholders

A. Background and framework

1. Constitutional and legislative framework

1. Trinidad and Tobago Blind Welfare Association (TTBWA) noted that the government of Trinidad and Tobago ratified the United Nations Convention on the Rights of Persons with Disabilities. However, local laws would now have to be drafted and implemented. It also considered that the Equal Opportunities Act does not provide adequately for disabled persons.[2]

2. Institutional and human rights infrastructure and policy measures

2. The Joint NGO Submission (SOGIE1) noted that Trinidad and Tobago does not have a Paris Principles-compliant NHRI[3].

B. Implementation of international human rights obligations, taking into account applicable international humanitarian law

1. Equality and non-discrimination

3. SOGIE1 noted that the Cabinet twice deferred action on an omnibus national gender policy before it, which had been the subject of considerable consultation and resources, and intended to achieve domestication of CEDAW. However religious opposition to recognition of the rights to LGBTI persons, to decriminalization of abortion, and to recognition of gender as a social construct were widely reported as the barriers to government leadership in moving it forward. In September 2015, a new government took office and has adopted its manifesto as government policy. That manifesto declares an intention to enact an older, 2009 gender policy document which states explicitly in its executive summary that it "does not provide measures dealing with or relating to...same-sex unions, homosexuality or sexual orientation" [4]

4. It also stressed that the last legal measure recognizing LGBT-related rights came into force in January 2012. Parliamentary debate on the LGBT community and the protection of the law has been ongoing and encouraging, but led in almost all instances by non-Government Parliamentarians.[5]

5. SOGIE1 recalled a University of the West Indies Faculty of Law report, which concluded that "the relevant criminal law shows insufficient regard for the life of a deceased LGBT person; the law fails to respect the criminal law principles of reasonableness and proportionality; and the law reflects a perception of the LGBT person as criminal." A pair of Trinidad & Tobago cases, *Cox v The State* and *Marcano v The State*, were at the core of the analysis.[6]

6. On LGBT rights, SOGIE 1 recommended that the Government develop and implement from 2016 onward a national campaign of human rights and anti-discrimination education in the national media, in schools and in local communities, that explicitly includes sexual and gender diversity and NGOs and representatives from LGBTI communities[7]. It also recommended that the Government and Opposition jointly pass legislation to amend the Constitution's Bill of Rights (currently Section 4) to protect against discrimination on the basis of sexual orientation and gender[8]; and that the Government introduce and bring to a debate in Parliament a legislative amendment to the

Equal Opportunity Act to add sexual orientation, age and HIV to be protected under Section 3[9]. Finally, it recommended the Ministry of Labour & Small Enterprise Development to bring to Cabinet for adoption a simple policy statement on non-discrimination in public employment, including all uniformed services, on the basis of sexual orientation and gender identity.[10]

7. Squeaky Wheels (SW) noted that Persons with Disabilities in Trinidad and Tobago (TT) remain one of the most marginalized, voiceless groups whose fundamental inalienable rights are often infringed by the absence of appropriated systems that facilitate their inclusion in society. This marginalization by the wider society has lead persons with disability to being treated as second class citizens in TT. It also noted that. Historically, a regressive charity based approach lead to the disabled being treated as objects of charity. The charity based model excluded the disabled form mainstream education, transportation, employment, recreational activities, etc. [11] SW recommended, after appropriate consultations, enacting Disability Legislation and reviewing the Mental Health Act in accordance with international best practice.[12]

8. It also noted that, although current state programs are available to the disabled, many of them are not accessible by the disabled. The gap in accessibility often infringes on a person with disability achieving his/her fullest potential and contributing to national development. There exists a large gap in the quality of life experienced by Persons with Disabilities. If left unaddressed, the demand for welfare and state hand outs will increase[13]. It recommended promoting mainstreaming of disability issues by including a disability clause in each cabinet minute approved by the government. This clause would detail the impact on that cabinet minute on the disability community. It also recommended developing and implement a strategy to ensure each public building has disability access either by original design or by retro-fit in ten years time in accordance with National Accessible Building Standard of the TT Bureau of Standards. Finally, it recommended designing and implementing a strategy to have all sidewalks in TT accessible according to National Sidewalk Standard for Trinidad and Tobago.[14]

9. TTBWA considered that the implementation of laws is also necessary to assist in the empowerment of blind persons. The Equal Opportunity Act is limited in its scope and neither does it compel or suggest reasonable accommodation.[15]

2. Right to life, liberty and security of the person

10. SOGIE1 commended that in November 2014 Trinidad and Tobago established a standing Joint Select Committee (JSC) on Human Rights, Diversity, the Environment and Sustainable Development. The Committee established domestic violence as its first priority and produced a June 2015 report examining programmes and services which provide support to victims of domestic violence. It invited 28 NGOs to make submissions. LGBTI NGOs were not among them, and the report made no recognition of the gaps in services for victims of same-sex domestic violence and the stigma they face.[16]

11. Alliance Defending Freedom International (ADF International) noted that combatting crime in Trinidad was of utmost importance for the development of the country. Development would remain stunted for so long as the population lives in fear and young people flee to other countries in the pursuit of a safer life and better employment opportunities. They stressed that all persons in Trinidad are entitled to live free from violence, and the Government must do everything in its power to protect this most basic right.[17] It recommended combatting violent crime in the country to improve the safety and wellbeing of the population.[18]

12. ADF International also stated that ending domestic violence is of paramount importance. Measures must be taken to ensure the effective implementation of the Domestic Violence Act (1999), and to send clear signals to perpetrators of violence that all

crimes will be prosecuted. Educational initiatives, in conjunction with community and religious leaders, are needed to inform individuals and families about the importance of seeking protection in the face of violence and the options afforded to them.[19]

13. Global Initiative to End All Corporal Punishment of Children (GIEACPC) noted that legal reform in 2015 achieved prohibition of corporal punishment of children in all settings outside the home. However, corporal punishment of children within the home remains lawful, despite repeated recommendations to prohibit it by the Committee on the Rights of the Child and the Committee on Economic, Social and Cultural Rights and recommendations made during the 1st cycle UPR of Trinidad and Tobago (rejected by the Government)[20]. It also considered that achieving full prohibition required the enactment of legislation explicitly repealing the right of parents to use corporal punishment in article 4 of the Children Act 2012.[21]

14. SOGIE1 was concerned that the 2000 amendments did not include the definitions of rape and grievous sexual assault in the Sexual Offences Act. They are prosecuted using section 16 "serious indecency", which carries a far lesser sentence if both parties are adults, of five years (ten for a subsequent offence).[22]

15. Living Water Community (LWC) stated that Trinidad and Tobago has not acceded to the *Convention Against Torture (CAT)*, which would supplement the *Trafficking in Persons Act* whereby rogue government officials may be implicated both domestically and abroad. In addition, there have been numerous reports of harsh/violent treatment of prisoners in places of detention.[23] The Trafficking in Persons Act was proclaimed in January 2013 and a Counter Trafficking Unit (CTU) was established. However, there remain inefficiencies in meeting minimum international standards and low prosecutions rates. In addition, many cases reported to LWC refuse to allow LWC to refer them to the CTU due to intense mistrust in the unit due to allegations of law enforcement officials' involvement in corruption and trafficking rings.[24]

16. LWC recommended Trinidad and Tobago to improve on civil society partnership with the CTU and conduct public awareness campaigns to improve public perception and increase public confidence in the CTU to increase number of reported cases and better identify victims; to develop a National Plan of Action in collaboration with all stakeholders and allow for funding for civil society organisations to complement the CTU's effort and ensure appropriate victim care and assistance; and to ensure closer collaboration between Trafficking in Persons stakeholders and Refugee stakeholders to ensure that both categories of persons can access the rights and services they are entitled to.[25]

3. Administration of justice, including impunity and the rule of law

17. SOGIE1 stated that it is well documented that right-holders in post-colonial, small-island developing states like Trinidad and Tobago, especially those who are sexual minorities, are vulnerable to victimization, violence and other rights violations, and single violations can effect multiple ruptures to safety, dignity and livelihood. Besides the IACHR, Trinidad & Tobago affords rights-holders no access to supranational human rights adjudication mechanisms, which are expressly designed to backstop failures, negligence or weaknesses in domestic mechanisms.[26]

4. Right to privacy, marriage and family life

18. LWC recommended Trinidad and Tobago to ensure that all persons born in Trinidad and Tobago's jurisdiction, irrespective of their parents' status, are guaranteed access to birth registration procedures without reprisal to parents for doing so.[27]

19. SOGIE1 referred to the UPR first cycle and the recommendations 87.17, regarding rights of all children,[28] and 87.26 regarding the increase of accessibility and quality of health services and education for all citizens.[29] It noted that new child protection legislation

and improvements in health and education services leave critical gaps in sexuality education, maintain laws enabling child marriage, and radically increase criminal penalties for same-sex sexuality between minors, while decriminalizing similar conduct between children of opposite sexes. [30]

5. Right to social security and to an adequate standard of living

20. LWC noted that asylum seekers and refugees face limited integration prospects and continue to lack basic rights to an identification document. Even recognized refugees are unable to acquire a bank account and lack access to employment and guaranteed access to public social services such as education for children and health care. In addition, refugees who may otherwise qualify for employment or family based residency can often be denied this by having to choose one status within the immigration system. It recommended implementing the Refugee Policy to provide identity documents to recognised refugees so that, in accordance with their rights, refugees may access social services, obtain work and/or ministers permits to increase self-reliance and to pursue naturalisation options[31].

6. Right to health

21. ADF International noted that under the Offences Against the Person Act, abortion in Trinidad is legal only in instances where it is deemed necessary to save the life of the woman, or to preserve physical or mental health. Despite the restrictive laws, it has been alleged that the abortion rate in Trinidad is among the highest in the world, and has contributed to the rising number of maternal deaths[32].

22. In addition to prosecuting providers of illegal abortions, the government should focus its efforts on reducing the root causes that lead women to turn to abortion, namely poverty, domestic violence, premature sexual activity, and lack of education and employment.[33]

23. ADF International recalled a report from WHO, UNICEF, UNFPA, The World Bank, and the United Nations Population Division, which stated that the maternal mortality ratio (MMR) in Trinidad jumped from 59 in 2000 to 84 in 2013. ADF considered crucial that the Government of Trinidad undertake urgent efforts to accurately record maternal health data and ultimately to improve the health of its mothers. It recommended Trinidad and Tobago to increase efforts to ensure accurate and timely data collection on abortion, maternal health, and other health statistics.[34]

24. SOGIE1 recalled recommendation 87.25 regarding the reduction of maternal mortality,[35] but noted that maternal mortality rates rose 40% over a three-year period. Media reports on the *Third Annual Report 2014—Making Progress, Strengthening a Nation*, laid in Parliament in April 2015, quote the then Planning minister that the maternal mortality rate rose from 46 per 100,000 births in 2010 to 64 in 2013. He also told Parliament that the mortality rate was among indices that "fell below their targets, and therefore require immediate and urgent attention". [36] SOGIE1 recommended the Government to ensure that women have universal access to equitable, quality health care, including reproductive health services.[37]

25. ADF International underlined that Trinidad has experienced success in reducing maternal mortality in the past (the MMR dropped from 89 in 1990 to 59 in 2000). However, recent increases demonstrate the critical need for a renewed focus on maternal health and prenatal care. Poor diet and a corresponding rise in obesity and diabetes have contributed to the rise in maternal health problems. Moreover, the high adolescent birth rate (32.6, 2006-2010) is a significant contributing factor. The consequences of premature sexual activity have a disproportionate impact on young girls because their bodies are not developmentally prepared for pregnancy, in addition to the fact that they are more susceptible to HIV and other STIs due to biological factors. Education on responsible sexual behavior in conjunction with parents, in addition to community and religious

leaders, is of vital importance.[38] It recommended Trinidad and Tobago to dedicate resources to advance in healthcare services, infrastructure and education to improve maternal health[39].

26. SOGIE1 stressed that statistics on teenage pregnancy and HIV in Trinidad and Tobago underline the link between inadequate education, early sexual activity and negative sexual health outcomes. These include data from the Central Statistical Office that since the turn of the century teen pregnancy rates have not declined. Yet, the current Minister of Justice stated that religious education must form a part of the curriculum in all schools while sex education although apart of ther social studies curriculum , it was largely a matter of parental responsibilities.[40]

27. In September 2015, following a change in government, the new Health minister announced plans for a universal health insurance system "especially for vulnerable groups… regardless of their personal financial circumstances".[41]

7. Right to education

28. TTEWA noted that persons who are blind are unable to participate fully as a result of a lack of accessible printed materials in addition to trained teachers who are equipped to deal with persons with disabilities.[42]

8. Persons with disabilities

29. SW stated that UNCRPD has been ratified in 2015and a multi-sectorial committee has been set up to implement the UNCRPD, but only one member is a person with disabilities, which is not in line with the participatory rights-based approach to UNCRPD implementation. Moreover, the committee lacks a budged and timeline for delivery.[43] SW recommended implementing UNCRPD Article 8 – Awareness at a level where it impacts all social classes, ages and geographic spaces in Trinidad and Tobago; and developing an action plan to implement the UNCRPD based on the recommendations of the World Report on Disability.- World Bank, World Health Organisation.[44]

9. Migrants, refugees and asylum seekers

30. LWC highlighted that the Immigration Act is the primary legislative document relating to migrants and is enforced by the Immigration Division, but noted that there remains a clear lack of oversight with regard to the protection of migrant rights. Lengthy administrative detention, costly deportation, unfavourable detention conditions, allegations of ill-treatment and abuse against detainees, detention of migrants , asylum seekers and refugees, lack of access to by NGOs suggest that reform of the immigration system is imperative.[45]

31. LWC recommended Trinidad and Tobago to undertake a comprehensive review of the Immigration Detention Centre (IDC) through independent monitoring in partnership with civil society along with the creation of a Working Group on Detention and Monitoring to ensure adherence to international standards and dignified treatment of detainees.[46]

32. It also recommended completing a National Plan of Action on Migration Detention in collaboration with all stakeholders, prioritizing alternatives to detention such as community-based reception alternatives as deliberated on during the UNHCR Global Roundtable on Reception and Alternatives to Detention; and reforming the Immigration Act to be compliant with International Human Rights Standards in the migration context such that all migrants, irrespective of status, are treated with dignity and respect with particular emphasis on more vulnerable groups such as LGBT migrants, children and the family unit, pregnant, lactating and single women, the elderly and the disabled. [47]

33. LWC considered that the National Consultative Committee on Migration (NCC), which was dissolved in 2014, presented a positive first step towards migration management

in Trinidad and Tobago. The absence of a National Human Rights Institution also contributed to the lack of migrant protection. [48] For this reason, it recommended reconvening the National Consultative Committee on Migration to facilitate the creation of a Migration Management Unit as the overarching, coordinating body to gather relevant data on migration, report, monitor and enforce migrant rights and liaise with stakeholders[49]. Additionally, LWC noted a need for a coordinated regional response to mixed migratory movements in the Caribbean region that ensures that persons in need of international protection can access it[50]. It recommended Trinidad and Tobago to utilise CARICOM to realise a task force on mixed migration to implement the commitments made during the Cartagena +30 process, with TT taking the lead on migration issues in the region, in addition to its role as Lead Head for Security.[51]

34. On the protection of asylum seekers and Refugee Rights, LWC commended that the National Policy to Address Refugee and Asylum Matters in the Republic of Trinidad and Tobago (Refugee Policy) was approved by cabinet in June 2014. This allows for the transfer of responsibility for refugee status determination (RSD) from UNHCR to the Government in three phases. It stated that, with the first phase already in progress involving capacity building for the Immigration Division, the early creation of an ad hoc Refugee Unit in 2015 before the end of phase 1 within the Immigration Division, and the continued close collaboration with LWC and UNHCR was laudable.

35. LWC welcomed that Trinidad and Tobago acceded to the Refugee Convention in 2001 and committed to implementing the *Brazil Plan of Action of December 2014*. However, with no domestic legislation, even when recognized, refugees still lack basic rights as guaranteed under the Refugee Convention and domestic legal status. It expressed its concern with regard to the identification of asylum seekers, particularly those in detention, access to asylum procedures, imposition of criminal sanctions for illegal entry, sometimes even after they have been granted refugee status or have indicated a desire to seek asylum. [52] It recommended to draft and enact legislation, using a participatory approach, that ensures full protection for refugees and asylum seekers and which is consistent with international standards and good practices and strengthening the Refugee Unit (Immigration Division) through access to training opportunities, collaboration with LWC and UNHCR, and allocating resources to ensure appropriate facilities and staffing for its effective functioning and respect for confidentiality. LWC also recommended to ensure that immigration and police officers are trained in the detection of persons in need of international protection and in the appropriate referral pathway to assistance; and that per article 31 of the Refugee Convention, ensuring that all persons with a good faith claim for refugee status that enter irregularly are not penalised.[53]

36. LWC also noted that Trinidad and Tobago is not yet a State party to the 1961 Convention in the Reduction of Statelessness though it has indicated that it is considering doing so. As statelessness is a regional issue, Trinidad and Tobago is in a position to prevent it by acceding to said convention and creating implementable frameworks and legislation.[54] It recommended Trinidad and Tobago to accede to the 1961 Convention on the Reduction of Statelessness and to conduct an analysis of domestic laws relevant to statelessness to identify gaps in protection.[55]

Notes

[1] The stakeholders listed below have contributed information for this summary; the full texts of all original submissions are available at: www.ohchr.org.
Civil society
Individual submissions:

ADF	ADF International, Geneva (Switzerland);
GIEPAC	Global Intiative to End All Corporal Punishment of Children, London (UK);
LWC	Living Water Community , Port of Spain (Trinidad and Tobago);
SW	Squeaky Wheels, San Fernando (Trinidad and Tobago);
TTBWA	Trinidad and Tobago Blind Welfare Association , Port of Spain (Trinidad and Tobago);

)Joint submissions:

SOGIE	CAISO- Allies for Justice and Diversity, Belmont (Trinidad and Tobago).

[2] TTBWA Submission to the UPR, page 3.
[3] SOGIE 1, Submission to the UPR, paragraph 48.
[4] SOGIE1, Submission to the UPR, paragraph 18.
[5] SOGIE1, Submission to the UPR, paragraph 28.
[6] SOGIE1, Submission to the UPR, paragraph 31.
[7] SOGIE1, Submission to the UPR, paragraph 56.
[8] SOGIE1, Submission to the UPR, paragraph 58.
[9] SOGIE1, Submission to the UPR, paragraph 59.
[10] SOGIE1, Submission to the UPR, paragraph 65.
[11] SW, Submission to the UPR, page 2.
[12] SW, Submission to the UPR, page 4.
[13] SW, Submission to the UPR, page 2.
[14] SW, Submission to the UPR, page 4.
[15] TTBWA, Submission to the UPR, page 2.
[16] SOGIE1, Submission to the UPR, paragraph 47.
[17] ADF International, Submission to the UPR, paragraph 23.
[18] ADF International, Submission to the UPR, paragraph 27.
[19] ADF International, Submission to the UPR, paragraph 24.
[20] GIEACPC, Submission to the UPR, page 1.
[21] GIEACPC, Submission to the UPR, page 2.
[22] SOGIE1, Submission to the UPR, paragraph 33.
[23] LWC, Submission to the UPR, page 5.
[24] LWC, Submission to the UPR, pages 5 and 6.
[25] LWC, Submission to the UPR, page 6.
[26] SOGIE1, Submission to the UPR, paragraph 52.
[27] LWC, Submission to the UPR, page 5.
[28] SOGIE1, Submission to the UPR, paragraph 7.
[29] SOGIE1, Submission to the UPR, paragraph 8.
[30] SOGIE1, Submission to the UPR, paragraph 9.
[31] LWC, Submission to the UPT, page 4.
[32] ADF International, Submission to the UPR, paragraphs 3 and 4.
[33] ADF International, Submission to the UPR, paragraph 16.
[34] ADF International, Submission to the UPR, paragraph 27.
[35] SOGIE1, Submission to the UPR, paragraph 12.
[36] SOGIE1, Submission to the UPR, paragraph 13.
[37] SOGIE1, Submission to the UPR, paragraph 67.
[38] ADF International, Submission to the UPR, paragraph 15.
[39] ADF International, Submission to the UPR, paragraph 27.
[40] SOGIE1, Submission to the UPR, paragraph 11.
[41] SOGIE1, Submission to the UPR, paragraph 40.
[42] TTBWA, Submission to the UPR, page 2.
[43] SW, Submission to the UPR, page 3.

[44] SW, Submission to the UPR, page 4.
[45] LWC, Submission to the UPR, page 1.
[46] LWC, Submission to the UPR, page 2.
[47] LWC, Submission to the UPR, page 2.
[48] LWC, Submission to the UPR, page 2.
[49] LWC, Submission to the UPT, page 3.
[50] LWC, Submission to the UPT, page 2.
[51] LWC, Submission to the UPT, page 3.
[52] LWC, Submission to the UPT, page 3.
[53] LWC, Submission to the UPT, page 4.
[54] LWC, Submission to the UPT, page 4.
[55] LWC, Submission to the UPT, page 5.